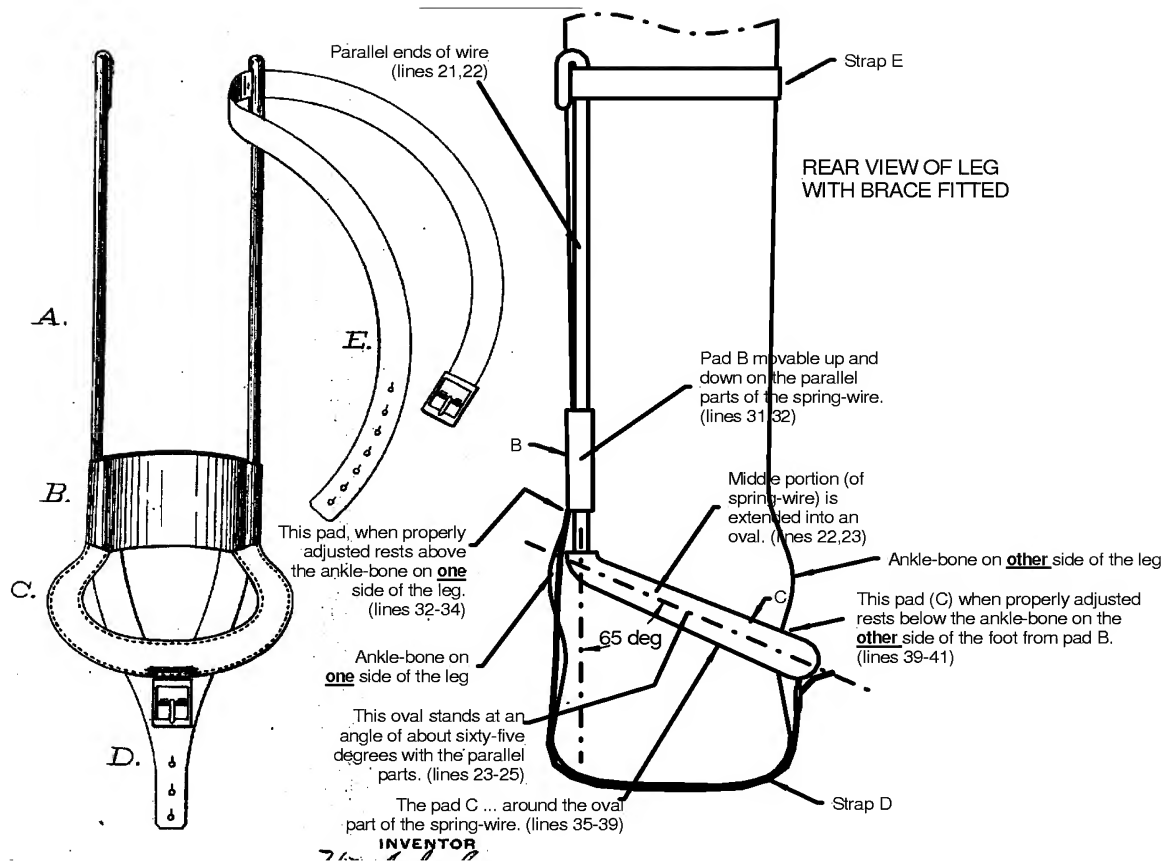


Remarks

7. With regard to the 35 USC 112 rejection in the third office action, the phrase in question “the shell being devoid of any feature for extending beneath the person’s heel for non-adjustably registering the shell vertically with respect to the person’s leg” has now been amended in claims 1, 17 and 21 so as to read:
“the shell being arranged so that, when it is so registered with the person’s ankle bone, the lower extent of the semi-rigid shell is above the base of the person’s heel”.
8. Support for this amendment is to be found in Figure 1, where the lower extent 40 of the medial shell 12 is above the base of the person’s heel 22, and in Figure 2, where the lower extent 50 of the lateral shell 14 is above the base of the person’s heel 22.
9. With regard to the 35 USC 102 rejection in view of Sears (US 654286), the independent claims have been amended to clarify the distinction of the invention over Sears by making it clear that the shell is applied to one side, or each shell is applied to a respective side, of the person’s leg. Support for these amendments is to be found throughout the specification and in particular in Figure 3, where it can be clearly seen that the medial shell 12 is applied to the medial side of the person’s leg, and the lateral shell 14 is applied to the lateral side of the person’s leg.
10. Sears discloses an ankle brace formed from a piece of bent spring-wire partly covered by leather at C and with a leather bridging piece B. Applicant submits that this does not constitute a “shell” as defined in claim 1 in any sense of the word. Applicant also submits that shell has a particular meaning in this art, and refers the examiner to the shells disclosed and described as such in, for example, US2006/0173393, US2002/0029009, US5902259 and US5445603.
11. Applicant has already supplied a drawing showing a rear view of the ankle brace of Sears applied to a leg. For convenience, a further copy is set out below.



12. Claim 1 as amended defines the shell as having “an inner surface shaped to conform to a side surface of a person's leg on one side of the person's leg between an upper extent above the person's ankle bone on said one side of the person's leg and a lower extent below the person's ankle bone on said one side of the person's leg but above the base of the heel.” By contrast, in Sears, the ankle brace engages above the ankle bone on one side of the person's leg and below the ankle bone on the opposite side of the person's leg.
13. Claim 1 as amended defines the registration portion as having “portions for engaging with the protruding part of the person's ankle bone from below, from in front of, from behind and from above the person's ankle bone on said one side of the person's leg for registering the shell in the directions of the four extents with respect to the person's ankle bone.” By contrast, in Sears, the leather covered portion D of the bent spring-wire engages the protruding part of the person's ankle bone from below the person's ankle bone on one side of the person's leg, but the leather bridging piece B engages the protruding part of the person's ankle bone from above the person's ankle bone on the opposite side of the person's leg. Furthermore, Applicant submits that the leather bridging piece B of Sears cannot be

considered to be a registration portion because it is movable up and down on the parallel parts of the spring-wire (lines 31 and 32). Moreover, Applicant submits that Sears fails to disclose any portions for engaging with the protruding part of the person's ankle bone from behind and from in front of the person's ankle bone.

14. Applicant therefore submits that the invention of claim 1 as amended and all of its dependent claims is novel having regard to Sears and that these claims are therefore not open to rejection under 35 USC 102.
15. Applicant furthermore submits that there is no suggestion in Sears of the distinguishing features discussed above and therefore that claim 1 as amended and all of its dependent claims should not be open to rejection under 35 USC 103 in view of Sears.
16. Applicant also submits either that the skilled person would not combine the teaching of Sears with the teaching of Wilkerson (US4590932), Nelson (US4527556) or McEwen (US332727), or that if the teachings were combined, they would not result in a shell for an ankle brace as claimed in any of the claims of the present application. Accordingly, Applicant submits that none of the claims as amended is open to rejection under 35 USC 103 in view of that prior art.

Conclusion

17. The finality of the third office action having been withdrawn, and amendments having been made to deal with all of the matters raised in the third office action, Applicant respectfully requests allowance of the application. In the event that the Examiner has any further concerns regarding the application, the undersigned would be pleased to discuss them by telephone.

Respectfully submitted

/ John V Stewart #38627 /

John V. Stewart, U.S. Patent Agent 38,627

1308 Henry Balch Dr., Orlando FL 32810

Phone: 407-629-5240, Email: patents@jvsinventions.com